

EXHIBIT 106

PUBLIC

In the Matter Of:

USA v

GOOGLE

MICHAEL SHAUGHNESSY

August 09, 2023



1
2 UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF VIRGINIA
4 -----x
5 UNITED STATES OF AMERICA, et al.,
6
7 PLAINTIFF,
8 -against-
9 GOOGLE LLC,
10 DEFENDANT.
11 Civil 1:23-cv-00108
12 DEPOSITION OF MICHAEL SHAUGHNESSY
13 New York, New York
14 Wednesday, August 9, 2023
15
16
17
18 Reported by:
19 Rebecca Schaumloffel, RPR, CLR
20 JOB #: 2023-906148
21
22
23
24
25

Page 1

Page 3

1 M. SHAUGHNESSY
2 THE VIDEOGRAPHER: We are now on
3 the record. My name is Lem Lattimer.
4 I'm a legal videographer retained by
5 Lexitas. Today's date is Wednesday,
6 August 9, 2023, and the video time is
7 10:00 a.m.
8 The deponent is Michael
9 Shaughnessy in the matter of the
10 United States of America versus Google
11 LLC. All appearances are noted on the
12 record.
13 Will the court reporter, Rebecca
14 Schaumloffel, please swear in the
15 witness.
16
17
18
19 MICHAEL SHAUGHNESSY, called as a witness,
20 having been first duly sworn by a Notary
21 Public of the States of New York, New Jersey,
22 and Pennsylvania was examined and testified
23 as follows:
24 EXAMINATION BY
25 MR. WOLIN:

Page 2

Page 4

1 A P P E A R A N C E S:
2
3 DEPARTMENT OF JUSTICE
4 Attorneys for the Plaintiff
5 950 Pennsylvania Avenue
6 New York, New York 20530
7 BY: MICHAEL WOLIN, ESQ.
8 KAITLYN BARRY, ESQ.
9
10 AXINN, VELTROP & HARKRIDER, LLP
11 Attorneys for Google
12 1901 L Street NW
13 Washington, DC 20036
14 BY: CHRIS ERICKSON, ESQ.
15
16 PAUL, WEISS, RIFKIND, WHARTON & GARRISON
17 Attorneys for the Defendant
18 Google
19 1285 6th Avenue
20 New York, New York 10019
BY: ERIN MORGAN, ESQ.
CARTER GREENBAUM, ESQ.
21
22 DAVIS & GILBERT
23 Attorneys for Kargo
1675 Broadway
New York, New York 10019
BY: INA B. SCHER, ESQ.
24
25 ALSO PRESENT:
Lem Lattimer, Lexitas
* * *

1 M. SHAUGHNESSY
2 Q. Good morning, Mr. Shaughnessy. My
3 name is Michael Wolin. I'm here on behalf of
4 the United States of America. I'm from the
5 Department of Justice Antitrust Division.
6 I'm joined here by my colleague, Kaitlyn
7 Barry, also an attorney for the United States
8 of America.
9 Could you please state your name
10 for the record, please.
11 A. Yes. Michael Shaughnessy.
12 Q. I would like to -- let me ask you
13 first, sir, have you been deposed before?
14 A. No.
15 Q. So I'm going to start, then, with
16 some procedures, just some ground rules so
17 that the deposition goes smoothly.
18 Is that okay?
19 A. Yes.
20 Q. Our court reporter will record
21 everything we say here today. So to assist
22 her, could you please speak loudly and
23 clearly and wait until I finish my question
24 before you start your answer?
25 A. Yes.

<p style="text-align: right;">Page 165</p> <p>1 M. SHAUGHNESSY</p> <p>2 A. They could.</p> <p>3 Q. Okay. Is that frequent, in your</p> <p>4 experience?</p> <p>5 A. It has been becoming more frequent</p> <p>6 recently based on consumer behaviors.</p> <p>7 Q. Do ad campaigns also typically</p> <p>8 include Connected TV ads or display ads for</p> <p>9 desktop?</p> <p>10 MR. WOLIN: Objection.</p> <p>11 A. It depends.</p> <p>12 Q. Can ad campaigns incorporate</p> <p>13 mobile ads, video ads, C TV ads, and desktop</p> <p>14 display ads?</p> <p>15 A. Yes.</p> <p>16 Q. In your experience, when one</p> <p>17 inventory type, like web display, in app-ads,</p> <p>18 video ads, CTV ads, generates better return</p> <p>19 on investments than other inventory types, do</p> <p>20 advertisers shift comparatively more spend</p> <p>21 from the lesser to the better performing type</p> <p>22 of inventory?</p> <p>23 MR. WOLIN: Objection.</p> <p>24 A. Can you repeat the question.</p> <p>25 Q. Yeah. If one type of inventory is</p>	<p style="text-align: right;">Page 167</p> <p>1 M. SHAUGHNESSY</p> <p>2 mobile ads compete with?</p> <p>3 MR. WOLIN: Objection.</p> <p>4 A. Desktop, previously print.</p> <p>5 Q. What about TV ads?</p> <p>6 A. To a degree, yes.</p> <p>7 Q. What about Connected TV? Is that</p> <p>8 different than regular TV ads or am I saying</p> <p>9 the same thing?</p> <p>10 A. They are considered different in</p> <p>11 the industry and also to the consumer.</p> <p>12 Q. Do mobile ads compete with</p> <p>13 Connected TV ads for dollars?</p> <p>14 MR. WOLIN: Objection.</p> <p>15 A. It depends.</p> <p>16 Q. But can they?</p> <p>17 MR. WOLIN: Objection.</p> <p>18 A. It could.</p> <p>19 Q. Could you shift spend from a</p> <p>20 mobile ad to a Connected TV ad as an</p> <p>21 advertiser if you thought that would be more</p> <p>22 profitable?</p> <p>23 MR. WOLIN: Objection.</p> <p>24 A. There are a lot of complexities</p> <p>25 that go into this based on the different</p>
<p style="text-align: right;">Page 166</p> <p>1 M. SHAUGHNESSY</p> <p>2 performing better than another one, so, say,</p> <p>3 video is performing better than Connected TV,</p> <p>4 in your experience, do advertisers shift more</p> <p>5 of their spend to video than to Connected TV</p> <p>6 in that example?</p> <p>7 MR. WOLIN: Objection.</p> <p>8 A. In my experience, marketers will</p> <p>9 want to make sure they are getting their</p> <p>10 return on investment and they'll recalibrate</p> <p>11 their campaigns and their tactics to deliver</p> <p>12 in the best environment to execute on their</p> <p>13 objectives.</p> <p>14 Q. When you say "recalibrate," do you</p> <p>15 mean that they could shift ad spend from one</p> <p>16 type of inventory to another?</p> <p>17 A. They can certainly optimize.</p> <p>18 Q. Does "optimize" mean shifting ad</p> <p>19 spend from one type of inventory to another?</p> <p>20 A. It is one mechanism, yes.</p> <p>21 Q. Do mobile ads compete for dollars</p> <p>22 with other types of advertising?</p> <p>23 MR. WOLIN: Objection.</p> <p>24 A. Yes.</p> <p>25 Q. What other types of advertising do</p>	<p style="text-align: right;">Page 168</p> <p>1 M. SHAUGHNESSY</p> <p>2 teams that support all of these initiatives,</p> <p>3 and they are not necessarily always the same</p> <p>4 team. So there is a lot of planning and</p> <p>5 thoughtfulness and work that would need to be</p> <p>6 done.</p> <p>7 But the client could certainly</p> <p>8 talk to their agency teams and discuss these</p> <p>9 types of opportunities.</p> <p>10 Q. Mr. Wolin asked you earlier about</p> <p>11 the link between GDN, AdX, and DFP.</p> <p>12 A. Yes.</p> <p>13 Q. And you said that the link between</p> <p>14 those things had both positive and negative</p> <p>15 impacts on publishers.</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember that?</p> <p>18 What are the positive impacts that</p> <p>19 that has on publishers?</p> <p>20 A. The positive impacts is, there is</p> <p>21 a powerful ad server and there is demand.</p> <p>22 Q. Okay.</p> <p>23 MS. MORGAN: I'm going to</p> <p>24 reserve the remaining, like, three</p> <p>25 minutes for redirect. Or however --</p>

<p style="text-align: right;">Page 173</p> <p>1 M. SHAUGHNESSY 2 "there are likely to be holes in the case," 3 you are not referring to a case filed by the 4 Department of Justice, correct? 5 A. Correct. 6 Q. Google's counsel asked you about a 7 meeting that -- or a telephone meeting that 8 you had with her. 9 Do you recall that testimony? 10 A. Yes. 11 Q. When did that meeting occur? 12 A. With the Google -- 13 Q. Correct. 14 When did you discuss with Google's 15 counsel over the phone? 16 A. This week. 17 Q. How long did you talk with 18 Google's counsel? 19 A. I believe the meeting was 20 scheduled for approximately 45 minutes. 21 Q. And did Google's counsel preview 22 to you the topics that she was going to ask 23 about at this deposition? 24 A. I don't believe so. It was mostly 25 focused on the previous conversations I had</p>	<p style="text-align: right;">Page 175</p> <p>1 M. SHAUGHNESSY 2 SSP in the ad tech industry? 3 A. Google. 4 Q. Which company offers the largest 5 demand source in the ad tech industry? 6 A. I believe it's Google. 7 MR. WOLIN: I have no further 8 questions. 9 MS. MORGAN: Can we just take a 10 two-minute break off the record, and 11 then I will come up and hopefully 12 finish out? 13 MR. WOLIN: Yes. 14 MS. MORGAN: I just want to use 15 the bathroom and talk to these guys 16 for a second. 17 THE VIDEOGRAPHER: The time is 18 2:10 p.m. We are off the record. 19 (Whereupon, a recess was held.) 20 THE VIDEOGRAPHER: The time is 21 2:16 p.m. We are back on the record. 22 MS. MORGAN: Mr. Shaughnessy, we 23 have no further questions for you. So 24 you can go out and continue to enjoy 25 the rest of your day.</p>
<p style="text-align: right;">Page 174</p> <p>1 M. SHAUGHNESSY 2 with the DOJ. 3 Q. And what did you tell her about 4 your previous communications with the DOJ? 5 A. I communicated that I was being 6 reached out to as someone in the industry, 7 initial conversations were characterized as 8 understanding the ecosystem, my role, header 9 bidding, the Google ad stack, and things like 10 that. 11 Q. Do you view the ad tech industry 12 as important? 13 A. Yes. 14 Q. Why do you view the ad tech 15 industry as important? 16 A. I believe the ad tech industry is 17 important because there is a value exchange 18 between content creators and consumers and is 19 really important to our democracy and making 20 sure that there is fact-based information 21 that is accessible to all. 22 Q. What company offers the largest 23 publisher ad server in the ad tech industry? 24 A. Google. 25 Q. What company offers the largest</p>	<p style="text-align: right;">Page 176</p> <p>1 M. SHAUGHNESSY 2 THE WITNESS: All right. Thank 3 you. 4 MS. MORGAN: Thank you so much. 5 MR. WOLIN: And thank you, as 6 well, from us. 7 THE WITNESS: Yes, thank you. 8 THE VIDEOGRAPHER: The time is 9 2:16 p.m. We are off the record. 10 (Whereupon, at 2:16 p.m., the 11 Examination of this Witness was 12 concluded.)</p> <hr/> <p style="text-align: right;">MICHAEL SHAUGNESSY</p> <p>16 Subscribed and sworn to before me 17 this _____ day of _____, 2023.</p> <hr/> <p style="text-align: right;">NOTARY PUBLIC</p> <p>19 20 21 22 23 24 25</p>

			Page 177	Page 179
1				1
2		E X H I B I T S		2 C E R T I F I C A T E
3				3
4				4 STATE OF NEW YORK)
5	EXHIBIT	EXHIBIT	PAGE	5 : SS.:
6	NUMBER	DESCRIPTION		6 COUNTY OF NASSAU)
7				7
8	Exhibit 1001	KARGO_000199	98	I, REBECCA SCHAUMLOFFEL, a Notary
9	Exhibit 1002	spreadsheet	98	Public for and within the State of New York,
10	Exhibit 1003	KARGO_000073 through	129	do hereby certify:
11		'114		10 That the witness whose examination
12	Exhibit 1004	Document titled	134	11 is hereinbefore set forth was duly sworn and
13		"Avoiding A Bad Google		12 that such examination is a true record of the
14		Breakup" dated June 1,		13 testimony given by that witness.
15		2021		14 I further certify that I am not
16	Exhibit 1005	Document titled	145	15 related to any of the parties to this action
17		"France Paves The Way		16 by blood or by marriage and that I am in no
18		For More Action		17 way interested in the outcome of this matter.
19		Against Google's		18 IN WITNESS WHEREOF, I have hereunto
20		Unfair Practices"		19 set my hand this 10th day of August, 2023.
21		dated August 5, 2021		20 
22				21 REBECCA SCHAUMLOFFEL
23				22
24				23
25				24
				25
			Page 178	Page 180
1				1 ERRATA SHEET FOR THE TRANSCRIPT OF:
2	Exhibit 1006	Document titled	154	2 Case Name: In Re: US, et al. V. Google LLC
3		"Publishers Have a		3 Dep. Date: August 9, 2023
4		Window of Opportunity		4 Deponent: Michael Shaughnessy
5		to Change Google and		5 CORRECTIONS:
6		Facebook" dated		6 Pg. Ln. Now Reads Should Read Reason
7		January 26, 2021		7 — —
8				8 — —
9				9 — —
10				10 — —
11				11 — —
12		I N D E X		12 — —
13				13 — —
14	EXAMINATION BY		PAGE	14 — —
15				15 — —
16	MR. WOLIN		3	16 — —
17	MS. MORGAN		115	17
18	MR. WOLIN		169	18 Signature of Deponent
19				19
20				20 SUBSCRIBED AND SWORN BEFORE ME
21				21 THIS ____ DAY OF _____, 2023.
22	INFORMATION AND/OR DOCUMENTS REQUESTED			22
23	INFORMATION AND/OR DOCUMENTS	PAGE		23 _____
24	(NONE)			24 (Notary Public) MY COMMISSION EXPIRES: _____
25				25